

Assembly Constitutional Amendment

No. 1

Introduced by Assembly Member Jeffries

December 6, 2010

Assembly Constitutional Amendment No. 1—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by amending Section 3 of Article I thereof, and by amending Sections 7 and 8 of, and adding Section 7.3 to, Article IV thereof, relating to meetings of the Legislature.

LEGISLATIVE COUNSEL’S DIGEST

ACA 1, as introduced, Jeffries. Meetings of the Legislature.

Existing provisions of the California Constitution require meetings of each house and committee of the Legislature to be open to the public, except that closed meetings may be held to consider specified matters, including employment and personnel, security, advice from counsel, and caucus meetings. Existing provisions of the California Constitution provide that no bill may be passed unless it is read by title on 3 days in each house except that the house may dispense with this requirement by rollcall vote entered in the journal, 2 /3 of the membership concurring. Existing provisions of the California Constitution prohibit a bill from being passed until the bill with amendments has been printed and distributed to the members.

This measure would further require a house or committee of the Legislature, at least 72 hours before a regularly scheduled meeting, to post an agenda containing a brief general description of each item to be considered, including items to be considered in closed session. The measure would generally prohibit consideration of any matter not included in the agenda. The measure would require public disclosure

of a writing provided to members of a house or a committee in connection with the consideration of agenda items unless the writing is exempt from the mandatory disclosure requirements imposed by statute. The measure would require each agenda for a regular committee meeting to provide an opportunity for members of the public to directly address the committee on an item of interest to the public, before or during the committee's consideration of the item, that is within the subject matter jurisdiction of the committee. The measure would provide for the calling of a special or emergency meeting of the house or a committee upon specified notice to its members and the media.

The measure would prohibit the passage of a bill in either house of the Legislature until the bill with amendments has been printed and distributed to the members of the house at least 24 hours before the vote in that house on passage of the bill.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

1 *Resolved by the Assembly, the Senate concurring,* That the
2 Legislature of the State of California at its 2011–12 Regular
3 Session commencing on the sixth day of December 2010,
4 two-thirds of the membership of each house concurring, hereby
5 proposes to the people of the State of California that the
6 Constitution of the State be amended as follows:

7 First—That Section 3 of Article I thereof is amended to read:

8 SEC. 3. (a) The people have the right to instruct their
9 representatives, petition government for redress of grievances, and
10 assemble freely to consult for the common good.

11 (b) (1) The people have the right of access to information
12 concerning the conduct of the people's business, and, therefore,
13 the meetings of public bodies and the writings of public officials
14 and agencies shall be open to public scrutiny.

15 (2) A statute, court rule, or other authority, including those in
16 effect on the effective date of this subdivision, shall be broadly
17 construed if it furthers the people's right of access, and narrowly
18 construed if it limits the right of access. A statute, court rule, or
19 other authority adopted after the effective date of this subdivision
20 that limits the right of access shall be adopted with findings
21 demonstrating the interest protected by the limitation and the need
22 for protecting that interest.

(3) Nothing in this subdivision supersedes or modifies the right of privacy guaranteed by Section 1 or affects the construction of any statute, court rule, or other authority to the extent that it protects that right to privacy, including any statutory procedures governing discovery or disclosure of information concerning the official performance or professional qualifications of a peace officer.

(4) Nothing in this subdivision supersedes or modifies any provision of this Constitution, including the guarantees that a person may not be deprived of life, liberty, or property without due process of law, or denied equal protection of the laws, as provided in Section 7.

(5) This subdivision does not repeal or nullify, expressly or by implication, any constitutional or statutory exception to the right of access to public records or meetings of public bodies that is in effect on the effective date of this subdivision, including, but not limited to, any statute protecting the confidentiality of law enforcement and prosecution records.

(6) Nothing in this subdivision repeals, nullifies, supersedes, or modifies protections for the confidentiality of proceedings and records of the Legislature, the Members of the Legislature, and its employees, committees, and caucuses provided by ~~Section 7~~ Sections 7 and 7.3 of Article IV, state law, or legislative rules adopted in furtherance of those provisions; nor does it affect the scope of permitted discovery in judicial or administrative proceedings regarding deliberations of the Legislature, the Members of the Legislature, and its employees, committees, and caucuses.

Second—That Section 7 of Article IV thereof is amended to read:

SEC. 7. (a) Each house shall choose its officers and adopt rules for its proceedings. A majority of the membership constitutes a quorum, but a smaller number may recess from day to day and compel the attendance of absent ~~members~~ *Members*.

(b) Each house shall keep and publish a journal of its proceedings. The rollcall vote of the ~~members~~ *Members* on a question shall be taken and entered in the journal at the request of ~~3 members~~ *three Members* present.

1 ~~(e) (1) The proceedings of each house and the committees~~
2 ~~thereof shall be open and public. However, closed sessions may~~
3 ~~be held solely for any of the following purposes:~~

4 ~~(A) To consider the appointment, employment, evaluation of~~
5 ~~performance, or dismissal of a public officer or employee, to~~
6 ~~consider or hear complaints or charges brought against a Member~~
7 ~~of the Legislature or other public officer or employee, or to~~
8 ~~establish the classification or compensation of an employee of the~~
9 ~~Legislature.~~

10 ~~(B) To consider matters affecting the safety and security of~~
11 ~~Members of the Legislature or its employees or the safety and~~
12 ~~security of any buildings and grounds used by the Legislature.~~

13 ~~(C) To confer with, or receive advice from, its legal counsel~~
14 ~~regarding pending or reasonably anticipated, or whether to initiate,~~
15 ~~litigation when discussion in open session would not protect the~~
16 ~~interests of the house or committee regarding the litigation.~~

17 ~~(2) A caucus of the Members of the Senate, the Members of the~~
18 ~~Assembly, or the Members of both houses, which is composed of~~
19 ~~the members of the same political party, may meet in closed~~
20 ~~session.~~

21 ~~(3) The Legislature shall implement this subdivision by~~
22 ~~concurrent resolution adopted by rollcall vote entered in the journal,~~
23 ~~two-thirds of the membership of each house concurring, or by~~
24 ~~statute, and shall prescribe that, when a closed session is held~~
25 ~~pursuant to paragraph (1), reasonable notice of the closed session~~
26 ~~and the purpose of the closed session shall be provided to the~~
27 ~~public. If there is a conflict between a concurrent resolution and~~
28 ~~statute, the last adopted or enacted shall prevail.~~

29 ~~(d)~~

30 ~~(c) Neither house without the consent of the other may recess~~
31 ~~for more than 10 days or to any other place.~~

32 Third—That Section 7.3 is added to Article IV thereof, to read:

33 SEC. 7.3. (a) (1) The proceedings of each house and the
34 committees thereof shall be open and public. However, closed
35 sessions may be held solely for any of the following purposes:

36 (A) To consider the appointment, employment, evaluation of
37 performance, or dismissal of a public officer or employee, to
38 consider or hear complaints or charges brought against a Member
39 of the Legislature or other public officer or employee, or to

1 establish the classification or compensation of an employee of the
2 Legislature.

3 (B) To consider matters affecting the safety and security of
4 Members of the Legislature or its employees or the safety and
5 security of any buildings and grounds used by the Legislature.

6 (C) To confer with, or receive advice from, its legal counsel
7 regarding pending or reasonably anticipated, or whether to initiate,
8 litigation when discussion in open session would not protect the
9 interests of the house or committee regarding the litigation.

10 (2) A caucus of the Members of the Senate, the Members of the
11 Assembly, or the Members of both houses, which is composed of
12 the members of the same political party, may meet in closed
13 session.

14 (b) (1) At least 72 hours before a regularly scheduled meeting
15 of either house of the Legislature, or of a committee of either house,
16 the house or committee, as applicable, shall post an agenda
17 containing a brief general description of each item to be considered,
18 including items to be considered in closed session. A brief general
19 description of an item to be considered generally need not exceed
20 20 words, exclusive of the title of a bill.

21 (2) The agenda shall specify the time and location of the
22 regularly scheduled meeting and shall be posted in a location that
23 is freely accessible to the public and, if so requested, made
24 available in appropriate alternative formats accessible to persons
25 with a disability.

26 (c) A special meeting of a house or of a committee may be
27 called, as applicable, by the presiding officer or chair, or by a
28 majority of the members of the house or committee, by delivering
29 written notice to each member of the house or committee and to
30 each newspaper of general circulation and television or radio station
31 requesting notification. The notice must be delivered at least 24
32 hours prior to the scheduled special meeting and must specify the
33 time, place, and items to be considered at the special meeting. A
34 member may waive his or her right to receive written notice of a
35 special meeting by filing a written waiver with, as applicable, the
36 clerk of the house or the secretary of the committee. The written
37 notice may also be dispensed with for any member actually present
38 when the special meeting is convened.

39 (d) (1) An emergency meeting of a house or of a committee
40 may be called only by the presiding officer or chair, or by a

majority of the members of the house or committee, but only if an emergency has been declared by the Governor and the declaration is confirmed in a resolution adopted by the Legislature, by rollcall vote entered in the journal, two-thirds of the membership concurring. An emergency meeting shall not be called sooner than one hour after providing telephone notice to each member of the house or committee and to each newspaper of general circulation and television or radio station requesting notification.

(2) For purposes of this subdivision, “emergency” means any of the following:

(A) A work stoppage, crippling activity, or activity that severely impairs public health or safety.

(B) A crippling disaster, mass destruction, terrorist act, or threatened terrorist activity that poses an immediate and significant peril to the public health or safety.

(C) The existence of conditions of disaster or extreme peril to the safety of persons and property within the State, or parts thereof, caused by conditions such as attack or probable or imminent attack by an enemy of the United States, fire, flood, drought, storm, civil disorder, earthquake, or volcanic eruption.

(3) An emergency meeting shall address only matters relating to the emergency.

(e) No action or discussion shall be taken on any item not appearing on an agenda or notice posted pursuant to subdivision (b), (c), or (d), except under one or more of the following conditions:

(1) The action or discussion consists of brief responses to statements or questions posed by persons exercising their right to public testimony under subdivision (g), questions for clarification, brief announcements or reports of a member’s personal activities, or directions to staff to investigate an issue or to place that issue on a future agenda.

(2) The item is continued from the agenda of a meeting that was held less than six days previously.

(3) The house or committee finds, two-thirds of the membership concurring, that there is a need to take immediate action and that the need for immediate action became known to the body after the agenda notice was posted.

(f) A writing distributed to all members of a house or committee in connection with the consideration of an agenda item shall be

1 made available to the public unless that writing is statutorily
2 exempt from the mandatory disclosure requirements imposed by
3 statute.

4 (g) An agenda for a regularly scheduled meeting of a committee
5 shall provide an opportunity for members of the public to directly
6 address the committee on any item of interest to the public, before
7 or during the committee's consideration of the item, that is within
8 the subject matter jurisdiction of the committee. However, the
9 agenda need not provide an opportunity for members of the public
10 to address the committee on any item that has already been
11 considered, unless the item has been substantially changed since
12 the committee heard the item, as determined by the committee.

13 (h) The Legislature shall implement this section by concurrent
14 resolution adopted by rollcall vote entered in the journal, two-thirds
15 of the membership of each house concurring, or by statute, and
16 shall prescribe that, when a closed session is held pursuant to
17 paragraph (1) of subdivision (a), reasonable notice of the closed
18 session and the purpose of the closed session shall be provided to
19 the public. If there is a conflict between a concurrent resolution
20 and statute, the last adopted or enacted shall prevail.

21 Fourth—That Section 8 of Article IV thereof is amended to
22 read:

23 SEC. 8. (a) At regular sessions no bill other than the budget
24 bill may be heard or acted on by committee or either house until
25 the 31st day after the bill is introduced unless the house dispenses
26 with this requirement by rollcall vote entered in the journal, ~~three~~
27 ~~fourths~~ *three-fourths* of the membership concurring.

28 (b) The Legislature may make no law except by statute and may
29 enact no statute except by bill. No bill may be passed unless it is
30 read by title on 3 days in each house except that the house may
31 dispense with this requirement by rollcall vote entered in the
32 journal, ~~two-thirds~~ *three-fourths* of the membership concurring.
33 No bill may be passed *in either house* until the bill with
34 amendments has been printed and distributed to the members *of*
35 *the house at least 24 hours before the vote in that house on the*
36 *passage of the bill*. No bill may be passed unless, by rollcall vote
37 entered in the journal, a majority of the membership of each house
38 concurs.

39 (c) (1) Except as provided in paragraphs (2) and (3) of this
40 subdivision, a statute enacted at a regular session shall go into

1 effect on January 1 next following a 90-day period from the date
2 of enactment of the statute and a statute enacted at a special session
3 shall go into effect on the 91st day after adjournment of the special
4 session at which the bill was passed.

5 (2) A statute, other than a statute establishing or changing
6 boundaries of any legislative, congressional, or other election
7 district, enacted by a bill passed by the Legislature on or before
8 the date the Legislature adjourns for a joint recess to reconvene in
9 the second calendar year of the biennium of the legislative session,
10 and in the possession of the Governor after that date, shall go into
11 effect on January 1 next following the enactment date of the statute
12 unless, before January 1, a copy of a referendum petition affecting
13 the statute is submitted to the Attorney General pursuant to
14 subdivision (d) of Section 10 of Article II, in which event the
15 statute shall go into effect on the 91st day after the enactment date
16 unless the petition has been presented to the Secretary of State
17 pursuant to subdivision (b) of Section 9 of Article II.

18 (3) Statutes calling elections, statutes providing for tax levies
19 or appropriations for the usual current expenses of the State, and
20 urgency statutes shall go into effect immediately upon their
21 enactment.

22 (d) Urgency statutes are those necessary for immediate
23 preservation of the public peace, health, or safety. A statement of
24 facts constituting the necessity shall be set forth in one section of
25 the bill. In each house the section and the bill shall be passed
26 separately, each by rollcall vote entered in the journal, ~~two-thirds~~
27 *two-thirds* of the membership concurring. An urgency statute may
28 not create or abolish any office or change the salary, term, or duties
29 of any office, or grant any franchise or special privilege, or create
30 any vested right or interest.